

## **PART IV CORRECTIVE ACTION CONDITIONS AND REQUIREMENTS**

### **IV.A. CORRECTIVE ACTION PROGRAM**

In accordance with Section VIII, Paragraph 22 (b), of the Consent Decree, corrective actions related to releases from the Facility and the Site shall be enforced under and in accordance with the Consent Decree.

Pursuant to Section VIII, Paragraph 22 (c) (ii), of the Consent Decree, any corrective action related to the Site, if any, that may be required after the termination of the Consent Decree, shall be included as a condition of this Post-Closure Care Permit. Such corrective action may include, but is not limited to, monitoring of groundwater for three years after the Performance Standards under the Consent Decree are achieved as set forth in the applicable regulations and perform corrective action to address contamination that may be identified by such monitoring.

The Permittee shall propose, if deemed necessary by the New Mexico Environment Department (NMED), and in accordance with the New Mexico Water Quality Control Commission Regulations (20.6.2 NMAC), the New Mexico Hazardous Waste Act and associated regulations for corrective action, a groundwater monitoring plan for a three-year period after the termination of the Consent Decree which shall be subject to NMED review and approval. If Performance Standards, as defined in Section III of the Consent Decree, are exceeded during any three year monitoring plan, the Permittee shall propose an appropriate remediation plan for NMED's review and approval. The Permittee shall bear the burden of proof that any Performance Standard exceedances are not the result of the Permittee's actions

In the event the Permittee decides to clean close the Facility, the Permittee shall propose an appropriate closure plan for the Facility using the current NMED Soil Screening Levels, based upon the EPA Region 6 SSLs, or other applicable guidance and regulation, for NMED's review and approval.

NMED will review the work plans, reports, schedules, and other documents (submittals), which require NMED's approval in accordance with the conditions of this Post-Closure Care Permit. NMED shall notify the Permittee in writing of any submittal that is disapproved, or approved with conditions, and the basis thereof. This condition shall apply only to submittals that have been disapproved or approved with conditions by NMED.

In the event that a dispute arises between the Permittee and NMED about submittals required under this Permit, that is unable to be resolved through informal negotiations Section IV.A.1 of this Permit shall be followed.

#### **IV.A.1 Dispute Resolution**

The Permittee and NMED shall use good faith efforts to informally resolve all disputes arising out of requirements in this Module. The Permittee shall not invoke dispute resolution for purposes of delay. If, however, the Permittee disagrees, in whole or in part, with NMED's conditional approval of a submittal or disapproval required by the Permit, the following shall apply:

1. If the Permittee disputes any revisions or disapproves of plans, etc. made by NMED, the Permittee shall notify NMED in writing within 30 calendar days of receipt of NMED's decision. Such notice shall set forth the specific matters in dispute, the work affected by the dispute, including specific compliance dates, all factual data, analysis, opinion and documentation supporting the Permittee's position, and any matters considered necessary for NMED's determination.
2. The Permittee and NMED shall have 30 calendar days to use best efforts to resolve the dispute informally. If the Permittee and NMED are unable to resolve the dispute, the Permittee will have 30 days to request a final decision from the Secretary.
3. In the event agreement is reached, the Permittee shall comply with the terms of such agreement or if appropriate submit the revised submittal and implement the same in accordance with and within the time frame specified in such agreement. The resolution of the dispute shall, as necessary and appropriate, be incorporated as a Permit Condition.
4. If agreement is not reached, the Secretary will notify the Permittee in writing of his/her decision on the dispute within 30 calendar days from receipt of Permittee's request for a final decision. The Secretary's decision is a final agency action and shall be incorporated as an enforceable Permit Condition, however after administrative remedies are exhausted, judicial review shall be as provided by law in section 74-4-14 of the New Mexico Hazardous Waste Act or other applicable laws.

The invocation of dispute resolution shall not stay the requirements of any final decision of the Secretary absent a court order granting a stay.

## **IV.B. CORRECTIVE ACTION FOR SWMUs**

### **IV.B.1. Applicability**

The Conditions of Section IV.A apply to:

- a. The groundwater at the Site impacted by the SWMU identified in Appendix IV-A of this Module; and
- b. Any SWMU(s) created by Sparton on the land owned by the Permittee and located at 9621 Coors Road, N.W., Albuquerque, Bernalillo County, New Mexico.

## **APPENDIX IV-A**

### **List of SWMUs Requiring Corrective Action**

1. Concrete Sump (dry well)